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ALEXANDRIA, VA 22313-1450
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In re Application of:	:	
French et al.	:	
Application No.: 09/914,176	:	DECISION
PCT No.: PCT/GB00/00740	:	
Int. Filing Date: 01 March 2000	:	ON
Priority Date: 02 March 1999	:	
Atty. Docket No.: 78104.028	:	PETITION
For: Identification Of Bacteria By	:	
Amplification And Probing	:	

This is in response to the "Supplemental Response To Decision Dated 30 September 2003" filed on 06 October 2003.

DISCUSSION

In a Decision mailed on 30 September 2003, the "Petition to Revive" filed on 03 December 2002 was dismissed without prejudice. The reason for dismissal was that petitioner had failed to satisfy the requirements of 37 CFR 1.8 (b)(3), which provides that

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The instant petition includes a statement that "I personally placed the response in an envelope, attached the required postage, and dropped the envelope in the outgoing mail on November 13, 2001." This statement is ambiguous in that it is not clear whether counsel

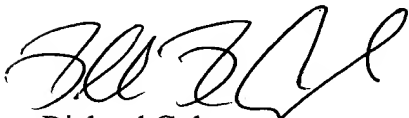
allegedly personally deposited the correspondence with the United States Postal Service (USPS) on 13 November 2001, or whether he merely allegedly placed it in an outgoing mail bin in his office on said date. The latter allegation would not be satisfactory in that it would tend to establish merely the *intent* to mail the correspondence, not that the correspondence was actually mailed. In the absence of clarification on this point, it would not be appropriate to grant the requested relief.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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